

11

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROCHELLE DANIEL

Plaintiff,

vs.

GOODYEAR TIRE/CBSD et al

Defendant.

Case:2:15-cv-11479  
Judge: Goldsmith, Mark A.  
MJ: Hluchaniuk, Michael J.  
Filed: 04-23-2015 At 11:42 AM  
CMP ROCHELLE DANIEL V GOODYEAR TIRE  
/CBSD (LG)

**COMPLAINT**

INTRODUCTION

1. This is an action for damages brought by an individual consumer for violations of the Fair Credit Reporting Act ("FCRA") 15 USC §1681 et seq., which prohibits the use of a consumer's report without a permissible purpose.
2. For invasion of privacy, based on a theory of intrusion upon seclusion for the unwarranted access to an individual consumer's credit report.

JURISDICTION AND VENUE

3. This a diversity action that is brought pursuant to 28 U.S.C. Section 1332 for invasion of privacy, and under Federal laws cited herein for which this Court has jurisdiction over the parties and claims.
4. Venue in this district is proper in that the Defendant transacts business here and the conduct complained of is alleged to have occurred here.

PARTIES

5. Plaintiff is a natural person residing at 19750 Braile, Detroit, Michigan 48219.
6. Defendant GOODYEAR TIRE/CBSD ("Goodyear") is a corporation in the business of automotive, and mailing address is P.O. Box 6003, Hagerstown, MD 21747

### FACTUAL ALLEGATIONS

7. On April 29, 2013, I was sent a copy of my credit report prepared by Experian and discovered that on June 27, 2012, Goodyear who I am unfamiliar with, requested a copy of my credit report without my consent. *See attached hereto as Exhibit 1 is my redacted Experian report showing Goodyear's inquiry*
8. Goodyear made a "hard pull" that effected my credit score indicates a full report was obtained.
9. In the Inquiry section of the report where Goodyear name appears states in part: "Below lists all of the companies that have requested your credit information as a result of an action you took, such as applying for credit or financing or as a result of a collection."
10. However, I had no business dealing or accounts with Goodyear, made application for credit from, made application for employment with, applied for insurance from, or received a bona fide offer of credit from Goodyear.
11. Therefore, on August 12, 2014, I faxed a letter to Goodyear requesting an explanation for the acquisition with no response.
12. On October 6, 2014, I called Goodyear and Ms. Christen said Goodyear would only pull the report for an application for credit, and if Goodyear pulled the report, I was not harmed.
13. Ms. Christen further stated, since the pull was so long ago, Goodyear would not have the application or any information.
14. However, it had only been two years between the time Goodyear pulled the report and I asked for an explanation for the pull.
15. It is not unreasonable for Goodyear to maintain an application on file for a three-year period beginning on the date on which the alleged application was made.
16. Goodyear failed to provide evidence of a reasonable belief that include any facts detailing the underlying credit transaction that justified its pull of my credit report.

17. Therefore, as a matter of law, Goodyear actions were inconsistent with one of the permissible purposes set forth in 15 U.S.C. § 1681b.
18. Goodyear illegally obtained the report by falsely certifying to Experian that it had a permissible purpose to obtain my private information constitute an unreasonably objectionable method of obtaining private subject matter about me they were not entitled to receive. *Doe v Mills*, 212 Mich App 73, 80, 88; 536 NW2d 824 (1995)
19. Plaintiff repeat re-alleges and incorporates by reference all other paragraphs herein for the following Causes of Action:

COUNT I  
**Fair Credit Reporting Act**

20. Defendant acted knowingly or with a reckless disregard to consumer rights in requesting and obtaining Plaintiff's credit report without a permissible purpose. Defendant's conduct in obtaining Plaintiff's credit report without a permissible purpose violates 15 U.S.C. § 1681b(f).

COUNT II  
**Fair Credit Report Act**

21. Defendant acted negligent and is liable for obtaining Plaintiff's consumer report without a permissible purpose violates § 1681b(f). Defendant's conduct is the direct cause of Plaintiff's mental anguish and personal humiliation.

COUNT III  
**Intrusion upon Seclusion**

22. Plaintiff has a reasonable expectation of privacy.
23. Defendant intentionally intruded into Plaintiff's right to privacy by, among other things, ignoring the fact that their records contain no information whatsoever of a business relationship between us that would support a legitimate business need for the report.
24. Defendant's intrusion were illegal, given that, Goodyear falsely certified to Experian it had a permissible purpose to obtain the report it was not entitled to receive is highly objectionable to a reasonable man.

25. Plaintiff suffered mental anguish, suspicion, and personal humiliation. Plaintiff's credit report contained highly sensitive information, such as, her social security number, addresses, credit information, and employment information she wanted to keep private.
26. Plaintiff's credit contained derogatory credit information she wanted to keep private.
27. Defendant's acted with malice, fraud and/or oppression, warranting exemplary and/or punitive damages.

WHEREFORE, Plaintiff hereby prays for the following relief on the foregoing Causes of Action against Defendant:

28. Counts I for willful violation for either knowing that their action violates the rights of Plaintiff or in reckless disregard of those rights, Defendant is liable under 15 U.S.C. § 1681n. See *Safeco Ins. Co. of Am. v. Burr*, 127 S. Ct. 2201, 2208 (2007).
29. Therefore, Plaintiff seeks statutory and punitive damages in the amount of \$15,000 from Defendant.
30. Count II for negligent failure to comply with any requirement of the Act, Defendant is liable under 15 U.S.C. § 1681o damages for emotional distress. See *Cole v. Am. Family Mut. Ins. Co.*, 410 F. Supp. 2d 1020, 1025 (D. Kan. 2006)
31. Therefore, Plaintiff seeks actual damages in the amount of \$25,000 from Defendant.
32. Count III for the unwarranted access to Plaintiff's credit report. See *Smith v. Bob Smith Chevrolet, Inc.*, 275 F. Supp. 2d 808, 822 (W.D. Ky. 2003)
33. Therefore, Plaintiff seeks \$370 for wanting to keep her credit information private. See *Latture v. Emmerling*, Docket No. 304833 (unpublished MCOA 9-17-13)

#### JUDICIAL NOTICE

34. All officers of the court for Wayne County in the state of Michigan are hereby placed on notice under authority of the supremacy and equal protection clauses of the United States Constitution and the common law authorities of *Haines v Kerner*, 404 U.S. 519, *Platsky v. C.I.A.* 953 F.2d. 25,

and *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000) relying on *Willy v. Coastal Corp.*, 503 U.S. 131, 135 (1992), "*United States v. International Business Machines Corp.*, 517 U.S. 843, 856 (1996), quoting *Payne v. Tennessee*, 501 U.S. 808, 842 (1991) (Souter, J., concurring). *Trinsey v. Pagliaro*, D.C. Pa. 1964, 229 F. Supp. 647, *American Red Cross v. Community Blood Center of the Ozarks*, 257 F.3d 859 (8th Cir. 07/25/2001).

In re Haines: pro se litigants are held to less stringent pleading standards than BAR registered attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims. In re *Platsky*: court errs if court dismisses the pro se litigant without instruction of how pleadings are deficient and how to repair pleadings. In re *Anastasoff*: litigants' constitutional rights are violated when courts depart from precedent where parties are similarly situated. All litigants have a constitutional right to have their claims adjudicated according the rule of precedent. See *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000). Statements of counsel, in their briefs or their arguments are not sufficient for a motion to dismiss or for summary judgment, *Trinsey v. Pagliaro*, D.C. Pa. 1964, 229 F. Supp. 647.

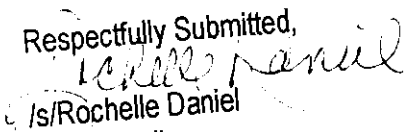
Courts are under a duty to examine the pro se's petition to determine if the allegations provide for relief on any possible theory." *Conner v. Circuit Court of St. Louis*, 526 F.2d 1331, 1334 (8th Cir. 1975) (quoting *Bramlet v. Wilson*, 495 F.2d 714, 716 (8th Cir. 1974)). Furthermore, if there is any possible theory that would entitle the plaintiff to relief, even one that the plaintiff hasn't thought of, the court cannot dismiss this case. *Bonner v. Circuit Court of St. Louis*, 526 F.2d 1331, 1334 (8th Cir. 1975) (quoting *Bramlet v. Wilson*, 495 F.2d 714, 716 (8th Cir. 1974)). More importantly, judges and courts must give pro se's wide latitude and **cannot dismiss an action if there is any valid cause that they can see, even if you are not pointing out the right law and presenting it well.** (Emphasis Added)

WHEREFORE, Plaintiff demands judgment against Defendant for statutory damages, costs, and such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully Submitted,



/s/Rochelle Daniel

19750 Braile

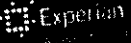
Detroit, MI 48219

(248) 247-6444

millicentdaniel@yahoo.com

April 21, 2015

EXHIBIT 1

	Prepared for: ROCHELLE DANIEL Date: April 29, 2013 Report number: 2765-1732-85
	Page 10 of 14

### Record of requests for your credit history

We make your credit history available to your current and prospective creditors and employers as allowed by law. Experian may list these inquiries for up to two years.

#### Inquiries shared with others

The section below lists all of the companies that have requested your credit information as a result of an action you took, such as applying for credit or financing or as a result of a collection. The inquiries in this section are shared with companies that receive your credit history.

Examples of inquiries shared with others include:

- a real estate loan
- a home mortgage loan
- an auto loan
- an application for credit

**Inquiries shared only with you**  
You may not have initiated the following inquiries, so you may not recognize each source. We report these requests to you only as a record of activities, and we do not include any of these requests on credit reports to others.

We offer credit information about you to those with a permissible purpose, such as:

- other creditors who want to offer you preapproved credit;
- an employer who wishes to extend an offer of employment;
- a potential investor in assessing the risk of a current obligation;
- Experian Consumer Assistance to process a report for you;
- your current creditors to monitor your accounts (date listed may reflect only the most recent request).

These inquiries DO NOT affect your credit score.

GOODYEAR TIRE/CBSO  
PO BOX 6083  
HAGERSTOWN MD 21747  
No phone number available  
Address identification number:  
0109426186

Date:  
Jun 27, 2012  
Reason:  
Unspecified. This inquiry is scheduled to continue on record until Jul 2014

0040307851



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/CBSD (LG)

A

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**County in which action arose WAYNE

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
ROCHELLE DANIEL(b) County of Residence of First Listed Plaintiff WAYNE  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

GOODYEAR TIRE/CBSD et al

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|
| Citizen of This State   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 |
| Citizen of Another State                                      | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 |
| Citizen or Subject of a Foreign Country                       | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 |
| Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY - Product Liability</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 BIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable-Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 FCRA 15 USC §1681 et seq and Intrusion upon Seclusion

Brief description of cause:

Defendant obtain my credit report without a permissible purpose thereby illegally obtaining the report it was not entitled to receive.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P.

DEMAND \$ 500,000.00

CHECK YES only if demanded in complaint:  
 JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions)

JUDGE

DOCKET NUMBER

SIGNATURE OF ATTORNEY OF RECORD

DATE

April 21, 2015

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes  
☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes  
☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes : \_\_\_\_\_

**Save** **Print** **Reset** **Exit**



PSG

Clerk's Office  
Theodore Levin U.S. Courthouse  
231 W. Lafayette Blvd., Room 564  
Detroit, MI 48226

RECEIVED  
APR 23 2015  
CLERK'S OFFICE  
DETROIT

Rachelle Daniel  
19750 Braile  
Detroit, MI 48219

48226-52718 0008

## New LawsUIT Check List

Instructions: Put a check mark in the box next to each appropriate entry to be sure you have all the required documents.

<input type="checkbox"/>	Two (2) completed Civil Cover Sheets.	Case: 2:15-cv-11479 Judge: Goldsmith, Mark A. MJ: Hluchaniuk, Michael J. Filed: 04-23-2015 At 11:42 AM CMP ROCHELLE DANIEL V GOODYEAR TIRE /CBSD (LG)
<input type="checkbox"/>	Enter the number of defendants named in your lawsuit in the blank below, add 2 and then enter the total in the blank.  <div style="display: flex; justify-content: space-between; align-items: center;"> <div>_____ + 2 = _____</div> <div>Complaints.</div> </div> <div style="display: flex; justify-content: space-between; font-size: small;"> <div># of Defendants</div> <div>Total</div> </div>	
	Received by Clerk: <u>YH</u> Addresses are complete: <u>YH</u>	

<input type="checkbox"/>	If any of your defendants are government agencies: Provide two (2) extra copies of the complaint for the U.S. Attorney and the Attorney General.
--------------------------	---

### If Paying The Filing Fee:

<input type="checkbox"/>	Current new civil action filing fee is attached.  Fees may be paid by check or money order made out to:  <div style="text-align: center;">Clerk, U.S. District Court</div>
	Received by Clerk: _____ Receipt #: _____

### If Asking That The Filing Fee Be Waived:

<input type="checkbox"/>	Two (2) completed Application to Proceed in District Court without Prepaying Fees or Costs forms.  <div style="text-align: center; font-size: large;">(1) Copy</div>
	Received by Clerk: <u>YH</u>

### Select the Method of Service you will employ to notify your defendants:

Service via Summons by Self	Service by U.S. Marshal (Only available if fee is waived)	Service via Waiver of Summons (U.S. Government cannot be a defendant)
<input type="checkbox"/> Two (2) completed summonses for each defendant including each defendant's name and address.  <div style="text-align: center; font-size: large;">(1) Copy provided</div>	<input type="checkbox"/> Two (2) completed USM – 285 Forms per defendant, if you are requesting the U.S. Marshal conduct service of your complaint.  <input type="checkbox"/> Two (2) completed Request for Service by U.S. Marshal form.  <div style="text-align: center; font-size: large;">None</div>	<input type="checkbox"/> You need not submit any forms regarding the Waiver of Summons to the Clerk.  <u>Once your case has been filed, or the Application to Proceed without Prepaying Fees and Costs has been granted, you will need:</u> <ul style="list-style-type: none"> <li>One (1) Notice of a Lawsuit and Request to Waive Service of a Summons form per defendant.</li> <li>Two (2) Waiver of the Service of Summons forms per defendant.</li> </ul>
Received by Clerk: <u>YH</u>	Received by Clerk: _____	Send these forms along with your filed complaint and a self-addressed stamped envelope to each of your defendants.  <div style="text-align: center; font-size: large;">None</div>

### Clerk's Office Use Only

Note any deficiencies here:

No Copies provided